IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 3947 OF 2004

Bhartiya Suraksha Rakshak &
General Kamgar Union .. Petitioner.

vs.

The Security Guards Board
& Ors. .. Respondents.

Shri I.S. Thakur for petitioner.
Smt. Lata Desai for respondent no.1.
Shri T.S. Shetty & Santosh Shetty
for R. No.2.
Shri B.K. Ashok & Ms. Sonia Sunil
for R.No.3.

CORAM : A.P. SHAH &
S.U. KAMDAR, JJ.
DATE : 29th September,2004

P.C.

Rule.

2. Learned counsel appearing for respondents waive service.

3. By consent, rule is made returnable forthwith.

4. This petiton is filed by the petitoner union seeking appropriate reliefs in favour of the security guards whose names are set out at Exhibit "A" to the petition in accordance with the provions of the Maharashtra Security Guards (Regulaton of Employment and Welfare) Act, 1981, hereinafter referred for brevity sake as "the Act" and the Scheme framed thereunder.

5. The learned counsel for the petitoner drew our attentino to the relevant provisions of the Act and the decision of the Division Bench of this Court in Maharashtra Suraksha Rakshak Aghadi & Anr. V/s. State of Maharashtra & Anr. (2002) 4 Mh. L.J. 748.

6. In view of the relevant provisons of the Act and the Scheme, it is cleare that for getting the benefits of the Act, the petitioner’s memebrs have to get themselves registered with the Board. The counsel for the petitoner stated that the concerned security guards would make an appropriate application for getting registration to the Board. Such an application to be made within four weeks from today. The Board will consider the same and

take appropriate decision in accordance with law, keeping in view the provisions of the Act and the Scheme as amended from time to time.

7. In the affidavit in reply filed on behalf of respondent no. 2 it is contended that the persons listed at Exhibit "A" to the petition are not security guards but they are doing the work of fire protection and safety, including taking care of necessary safety by taking rounds in the premises, observing safety conditions and taking necessary steps. Therefore, it is contended that they are not rendering predominantly security services as commonly understood. At the time of hearing however, Mr. Shetty, learned counsel for respondent no. 2 did not press the contention that the persons set out at Exhibit "A" are not doing the work of security guards. Mr. Shetty however pointed out that out of 12 guards listed at Exhibit "A" only guards at Sr. Nos. 3,4,5, 6 and 12 are presently in service of the 2nd respondent. This position is not disputed by the learned counsel Mr. Thakur appearing for the petitioner union. We are therefore inclined to confine the relief only in relation to the security guards listed at Sr. Nos. 3, 4, 5, 6 and 12.

8. It appears that respondent no. 2 has not got

itself registered as required by the provisions of the Scheme. We direct the Respondent No. 2 to make the necessary application to the Board within four weeks for registration. On receipt of the application the Board will pass appropriate orders within two weeks. Thereafter the Board will follow the provisions of the Act and the Scheme for supplying security guards.

9. Needless to say that as far as possible while allotting the services of the security guards, the Board will keep in mind the fact that the security guards whose names are mentioned at Sr. Nos. 3,4, 5, 6 and 12 were working with the 2nd respondent for more than one year. The Board will accommodate them as far as possible.

10. The above order will not preclude the respondent no. 2 from appointing the security guards directly on permanent basis.

11. Writ Petition stands disposed of accordingly.